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Queensland Competition Authority
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(Submitted via QCA Online Submission Form)

Review of Rebate mechanism

The Queensland Resources Council (**QRC**), on behalf of the QRC's Rail Working Group, welcomes the opportunity to respond to the Queensland Competition Authority's (**QCA's**) invitation to make a submission on the QCA's draft decision on the review of the Rebate mechanism under the Central Queensland coal network access undertaking (**Undertaking**).

The QCA is to decide whether the 'Rebate' mechanism as described in clause 7A.6 of the Undertaking is achieving the 'Rebate Objectives'. The 'Rebate Objectives' are defined in clause 7A.6(g) as follows:

- (i) provision of comprehensive and transparent information, and support by Aurizon Network for the Independent Expert's work in relation to the determination of the Rebate;
- (ii) accurate, reliable and timely root cause analysis of the reasons why an End User's Train Service Entitlements are unable to be ordered, are ordered but not provided, or are not utilised; and
- (iii) timely and effective provision of an individual Rebate to End Users calculated in accordance with clause 7A.6(b) in circumstances where an End User has received less than their Train Service Entitlements in a Year due to an AN Performance Breach.

In its draft decision the QCA has found on a preliminary basis that paragraph (ii) of the 'Rebate Objectives' (**Rebate Objective 2**) is not being met.

Rebate Objective 2 not being met

Rebate Objective 2 has a number of elements. The first element is a question of 'why' an End User is not able to order, is not able to receive or does not utilise a 'Train Service

Entitlement'. A second element is the provision of 'accurate' and 'reliable' root cause analysis of the 'why' element. That is a matter of determining the quality of information. The third element is 'timely' provision of root cause information.

It is evident that none of the elements of Rebate Objective 2 are being achieved. As was noted in the QRC's prior submission that is not a criticism of the Independent Expert or Aurizon Network, and is entirely a reflection of how complex, large and new the task is. There has been much positive work undertaken by the Independent Expert and Aurizon Network.

The failure to achieve Rebate Objective 2 is a result of a number of factors. The coal chain is complex, and there may be various factors which contribute to the loss of a single Train Service Entitlement. When collated, an assessment of all Train Service Entitlements is a very large and complex exercise. The Rebate process recently completed was the first time that some of these issues needed to be assessed. Currently the mechanisms and processes required to provide the Independent Expert with 'timely' information of the 'why' remain a work in progress. The provision of root cause information is dependent on the Independent Expert and Aurizon Network agreeing on the content and scope of the information. Further and most importantly, elements of the processes in the coal chain to order and use a Train Service Entitlement were established prior to, and therefore without consideration of, the needs of the Rebate process. Additionally, given the highly fluid nature of the coal chain it is inevitable that aspects of the ordering process will change over time, and there is a need to ensure that the needs of the Rebate process are factored into such changes.

Changes to the Undertaking in order to facilitate achievement of Rebate Objective 2

In finding on a preliminary basis that Rebate Objective 2 is not being met, the QCA invited stakeholders' views on changes to the Undertaking that may facilitate achievement of Rebate Objective 2.

At its core the failure to achieve Rebate Objective 2 is due to the availability, timeliness and quality of information. While it is our hope and expectation that the Independent Expert and Aurizon Network will continue to work collaboratively on these issues, we consider that these intentions should be reflected in, and supported by, changes to the Undertaking.

Changes are also needed to the Undertaking to ensure that the Independent Expert has an ability to request the information it needs within the time it requires, and of the quality it needs. The current gap in information exists because the information may not currently be collected. There is a need to give the Independent Expert the right to request that information be collected (to the extent it is feasible and relevant to do so). Having such a right would also provide the mechanism needed to modify Train Service Entitlement ordering processes to enable the required data collection.

Changes are needed to the Undertaking given that the coal chain is a fluid system, and what may be relevant in one year may not be relevant in a later year. Without changes to the Undertaking the Independent Expert has an insufficient right to obtain the information needed to achieve Rebate Objective 2. There is currently no mechanism in the Undertaking to ensure that information is provided in a 'timely' manner.

Agreed Undertaking changes

The QRC, Aurizon Network and the Independent Expert have engaged in discussions with a view to agreeing amendments to the Undertaking.

Aurizon Network and the QRC have agreed a comprise set of drafting changes to clause 10.8.2 of the Undertaking. The agreed language (which represents the only Undertaking changes which are now sought by the QRC) appears at appendix 1 of the Aurizon Network submission. While Aurizon Network and the QRC agreed Undertaking drafting changes, the parties did not share their submissions for endorsement. Accordingly, the QRC does not endorse the Aurizon Network submission (and nor can it be said that Aurizon Network endorse the QRC submission).

The QRC consider that the agreed changes to the Undertaking are needed to address Rebate Objective 2 because addressing this shortfall has the potential for great benefit to the coal chain. Understanding root cause analysis or loss or underutilisation has the ability to enable improvements to be made for the benefit of all participants in the coal chain. Currently there are significant gaps in knowledge which prevent those improvements being able to be identified (because the cause is not well understood). Understanding root cause analysis will have many other flow on benefits including (the QRC hopes) facilitating more accurate capacity analysis, and improvements in other aspects of the administration of the Undertaking. The prize to be unlocked from better understanding root causes of the loss of Train Service Entitlements could far outweigh the value of the payment of Rebates.

Thank you for the opportunity to provide this submission.

We would of course be happy to provide any further information that may be helpful.

Lastly, we thank the Independent Expert and Aurizon Network on the efforts to collaborate which has resulted in the agreed drafting referred to in this submission being able to be submitted to the QCA.

Yours sincerely


Andrew Barger

Queensland Resources Council